

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ROBERT E. GILLMOR
and
EVELYN B. GILLMOR

Claim No. CU-3415

Decision No. CU 5985

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

Claimants, ROBERT E. GILLMOR and EVELYN B. GILLMOR, who owned a stock interest in Havana Lithographing Company, assert a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of Central West Company (Claim No. CU-3440 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per common stock share of \$2.51.

On the basis of evidence in the record in the instant case, the Commission finds that these claimants come within the terms of the Central West decision; that they were American nationals at the requisite times.

Section 504 of the Act provides, as to ownership of claims, that

- (a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss

and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

On the basis of evidence of record, the Commission finds that these claimants acquired 2,000 shares of Havana Lithographing Company stock by purchase on February 14, 1966 for a consideration of \$90.25.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on August 6, 1960. In similar cases claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimants and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of Samuel J. Wikler, et al., Claim No CU-2571, 1968 FCSC Ann. Rep. 47.)

The Commission finds that claimants, upon their purchase of the securities, succeeded to the loss sustained by the assignor of the claimed securities, and concludes that they succeeded to and suffered a loss in the total

amount of \$90.25 (the price they paid) as a result of the nationalization of the Company on August 6, 1960.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see the Claim of Lisle Corporation, Claim No. CU-0644).

The Commission concludes, however, that the amount of loss sustained by claimants herein shall be increased by interest thereon at the rate of 6% per annum from February 14, 1966, the date on which claimants acquired this claim, to the date on which provisions are made for the settlement thereof.

Claim is asserted herein for \$1,922.07 which is the difference between the purchase price of 2,000 shares of Havana Lithographing Company stock bought by claimants on April 28, 1961, less the sale price of \$29.71 received on December 13, 1966 when the first shares were sold, plus the cost of the second group of 2,000 shares purchased on February 14, 1966.

Ownership of a stock interest in a foreign corporation vests in the owner two items of property: an interest in the net worth of the corporation and an interest in any claim for nationalization. Upon a sale of that stock interest, and in the absence of any specific reservation, the seller transfers all rights incident to that stock. Claimants have neither alleged nor proven that they retained any interest in a claim based upon the first shares of Havana Lithographing stock purchased.


Therefore, the Commission finds that claimants did not have a claim based upon an interest in a nationalized Cuban corporation after December 13, 1966. Claimants sustained a loss on the sale of the securities but such is not a loss under Title V of the Act. Accordingly, the claim based upon the decrease in value of the stock must be and hereby is denied.

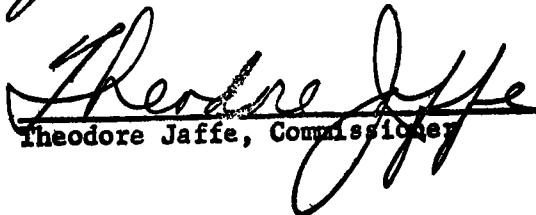
CERTIFICATION OF LOSS

The Commission certifies that ROBERT E. GILLMOR and EVELYN B. GILLMOR jointly suffered a loss, as a result of actions of the Government of Cuba within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Ninety Dollars and Twenty-five Cents (\$90.25) with interest thereon at 6% per annum from February 14, 1966 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

DEC 2 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)